



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,686	12/17/2004	Akseli Anttila	4208-4224	6077
27123 7590 10/17/2008 MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101				
EXAMINER				
UBER, NATHAN C				
ART UNIT		PAPER NUMBER		
3622				
NOTIFICATION DATE		DELIVERY MODE		
10/17/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com

Shopkins@Morganfinnegan.com

jmedina@Morganfinnegan.com

Office Action Summary

Application No.

10/518,686

Applicant(s)

ANTTILA ET AL.

Examiner

NATHAN C. UBER

Art Unit

3622

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 27-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 and 27-32 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is in reply to the amendment filed on 10 June 2008.
2. Claims 1-23 have been amended.
3. Claims 27-32 have been added.
4. Claims 24-26 have been canceled.
5. Claims 1-23 and 27-32 are currently pending and have been examined.

Specification

6. The abstract of the disclosure was objected to because it was not filed on a separate sheet of paper. Applicant corrected the problem, accordingly the objection is withdrawn.

Claim Objections

7. Claims 22 and 23 are objected to because of minor following informalities. Appropriate corrections were made, accordingly the objection is withdrawn.
8. Claim 30 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 30 is dependent on claim 20, however claim 30 is a method claim and refers to the "method of claim 20" when in fact claim 20 is not a method but an apparatus. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form.

Claim Rejections - 35 USC § 112

9. Claims 1-11, 14-16, 18-20, 22 and 23 were rejected under 35 U.S.C. 112, second paragraph. Claims 1-23 have been amended. Regarding claims 1, 5, 6, 10, 11, 14-16, 18, 19, 20, 22 and 23, Examiner presented Applicant with a list of terms deemed indefinite and listed Examiner's

Art Unit: 3622

interpretation of each term. Applicant in response adopted Examiner's interpretations (see at least Section V of Applicant's Response 10 June 2008, "Applicant's respectfully assert that no further definition of the terms identified by examiner is necessary"). As a result of the amendments and the clarification of the indefinite terms on the record, the rejections with respect to claims 1-11, 14-16, 18-20, 22 and 23 are hereby withdrawn.

Claim Rejections - 35 USC § 101

10. Claims 3, 5, 11-15 and 20 were rejected under 35 U.S.C. 101. Applicant's argument with regard to these rejection is persuasive. The rejection is hereby withdrawn.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

Art Unit: 3622

and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.
15. Claims 1-18, 27-29, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strietzel (U.S. 2001/0051517) in view of Reese (U.S. 2003/0191685 A1).

Claim 1:

Strietzel, as shown, discloses the following limitation:

- *a promotion server configured to communicate a promotion message associated with an event having a defined start time to one or more communication terminals through at least one communication network in response to receiving a promotion message request from an event manager (see at least ¶0007, "[t]he telecommunications advertising means comprises an advertisement database and a processing means").*

The Strietzel invention does not specifically disclose *promotion message associated with an event having a defined start time*. Although the content of a promotion message does not patentably affect the scope of the invention and therefore deserves no patentable weight, as claimed the promotion message is "associated" with an event and the association is not necessarily limited to information about the event. The "association" remains ambiguous, however Examiner recognizes that Applicant attempted to narrow and more clearly define the invention by adding this limitation to the "promotion

message," so Examiner will apply patentable weight to the limitation. Reese, as shown, discloses *promotion message associated with an event having a defined start time* (see at least ¶¶0015-0016, "[t]he user is contacted at the appropriate time and destination with a message containing information associated with the event [t]his information may include a reminder about the event and/or information regarding a product, service, or other events associated with the event"). It would have been obvious to one having ordinary skill in the art at the time of the invention to integrate all of the functionality of the Reese invention with the invention of Strietzel since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable. Particularly, both inventions are focused on using any communications means to target appropriate messages to a user.

Further, Strietzel, as shown, discloses the following limitations:

- *said promotion server further being configured to receive an acceptance signal from one or more communication terminals through said at least one communication network* (see at least ¶0055, "[in]...a cellular network, or a paging network can stay on after the communication transaction is over and receive options or a menu allowing the party to select to receive more information about a particular product or service... the user can actually select to be connected directly to the company offering the products or service"),
- *said promotion server comprising a register for associating an accepting communication terminal of said one or more communication terminals with said promotion message, on reception of said acceptance signal from said accepting communication terminal,* (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source

and/or destination of the communication based on the information determined"),

- *said promotion server further being configured to communicate a reminder signal for said event to said accepting communication terminal through said first communication network (see at least ¶0007, "[t]he telecommunications advertising means comprises an advertisement database and a processing means").*

Claim 2:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said one or more communication terminals comprise at least one of mobile phones, cellular phones, personal office assistants or personal computers (see at least ¶0056, "[t]he device could be, for example, a telephone, cellphone, PDA, or computer...").*

Claim 3:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said promotion message comprises at least one of a text, a series of texts, a picture, a series of pictures, a video sequence, a series of video sequences, an audio track or a series of audio tracks (see at least ¶0038, "the advertisement may be an audio advertisement, it may be a jingle, a textual message, a video message, a graphic message, or a combination of these messages depending on the desired implementation").*

Claim 4:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said one or more receivers comprise at least one of a television, a radio, a set-top box, a receiver module for a computer, a multimedia terminal, a mobile or cellular phone, a personal office assistant or a personal computer (see at least ¶0056, "[t]he device could be, for example, a telephone, cellphone, PDA, or computer...").*

Claim 5:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said promotion message request comprises at least one of start time, end time of said event, duration of said event, event identity, event type, event presentation platform, promotion message or list of said receivers and said one or more communication terminals (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source and/or destination of the communication based on..." "...destination, type of communication, time of day, etc...").*

Claim 6:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said event presentation platform comprises at least one of the following connected to a media communication network and a network broadcaster: television, a radio, a set-top box, a receiver module for a computer, a multimedia terminal, a mobile or cellular phone, a personal office assistant or a personal computer (see at least ¶0056, "[t]he device could be, for example, a telephone, cellphone, PDA, or computer...").*

Claim 7:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said media communication network comprises at least one of a cable television network, a satellite television network, a radio frequency television network, a telephone network, a powerline network, or a radio network* see at least ¶0056, "[t]he device could be, for example, a telephone, cellphone, PDA, or computer...").

Claim 8:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said first communication network comprises at least one of a wired telecommunication network, a wireless telecommunication network, local area network, metropolitan area network, wide area network, or inter-network such as the Internet or a dedicated communication line* (see at least ¶0025, fixed telecommunications network).

Claim 9:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said connection comprises at least one of wired telecommunication network, a wireless telecommunication network, local area network, metropolitan area network, wide area network or a dedicated communication line* (see at least ¶0025, fixed telecommunications network).

Claim 10:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitations:

- *a storage device configured to store said register, said reminder and said promotion message* (see at least ¶0021, "[a]dvertisement database stores advertisements that can be played),

- *a processor configured to process communication with said one or more communication terminals, configured to process said promotion message request from said event manager, and to update information in said storage device (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source and/or destination of the communication based on the information determined").*

Claim 11:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitations:

- *said register comprises at least one of promotion message identity (see at least ¶0021, "[a]dvertisement database stores advertisements that can be played to system users at appropriate times based on appropriate criteria"),*
- *one or more communication terminal identities (see at least ¶0021, "[a]dvertisement database stores advertisements that can be played to system users at appropriate times based on appropriate criteria"),*
- *event data (see at least ¶0021, "[a]dvertisement database stores advertisements that can be played to system users at appropriate times based on appropriate criteria"),*
- *time data or (see at least ¶0021, "[a]dvertisement database stores advertisements that can be played to system users at appropriate times based on appropriate criteria"),*
- *group application data (see at least ¶0021, "[a]dvertisement database stores advertisements that can be played to system users at appropriate times based on appropriate criteria").*

Claim 12:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said one or more communication terminals is configured to forward said promotion message to further communication terminals connected in said first communication network* (see at least ¶0081, "[i]n one embodiment, advertisements received on a terminal can be forwarded to all or some of the stored phone numbers").

Claim 13:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitations:

- *wherein an accepting communication terminal of said further communication terminals is configured to respond to said promotion message by communicating an acceptance signal through said first communication network to said promotion server* (see at least ¶0055, "[i]n...a cellular network, or a paging network can stay on after the communication transaction is over and receive options or a menu allowing the party to select to receive more information about a particular product or service... the user can actually select to be connected directly to the company offering the products or service"),
- *said promotion server is further configured to associate said accepting communication terminal of said further communication terminals with said promotion message on reception of said acceptance signal from said accepting communication terminal* (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source and/or destination of the communication based on the information determined"),
- *said promotion server being adapted to communicate a reminder signal to said accepting communication terminal through said first communication network* (see at least ¶0007, "[t]he telecommunications advertising means comprises an advertisement database and a processing means").

Claim 14:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitations:

- *an accepting communication terminal of said further communication terminals is configured to respond to said promotion message by communicating an acceptance signal through said first communication network to said one or more communication terminals (see at least ¶0055, "[in]...a cellular network, or a paging network can stay on after the communication transaction is over and receive options or a menu allowing the party to select to receive more information about a particular product or service... the user can actually select to be connected directly to the company offering the products or service"),*
- *said one or more communication terminal further comprising a local register configured to associate an accepting communication terminal of said further communication terminals with said promotion message on reception of said acceptance signal from said accepting communication terminal (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source and/or destination of the communication based on the information determined"),*
- *said one or more communication terminals being configured to communicate a reminder signal to said accepting communication terminal through said first communication network (see at least ¶0007, "[t]he telecommunications advertising means comprises an advertisement database and a processing means").*

Claim 15:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitation:

- *said one or more communication terminals are configured to start a predetermined application when receiving said reminder signal* (see at least ¶0038, "the advertisement may be an audio advertisement, it may be a jingle, a textual message, a video message, a graphic message, or a combination of these messages depending on the desired implementation").

Claims 16, 29, 31 and 32:

Strietzel, as shown, discloses the following limitations:

- *initiating a promotion message via an event manager* (see at least ¶0007, "[t]he telecommunications advertising means comprises an advertisement database and a processing means," the Strietzel disclosure further includes numerous triggering events that initiate the processing means),
- *forwarding a promotion message request to a promotion server* (see at least ¶0007, "[t]he telecommunications advertising means comprises an advertisement database and a processing means," the Strietzel disclosure further includes numerous triggering events that initiate the processing means),
- *receiving an acceptance signal from an accepting communication terminal of said one or more communication terminals via said promotion server* (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source and/or destination of the communication based on the information determined", acceptance signal is broadly interpreted here to mean a signal that a communication line is established (i.e. signal received), as shown in the cited paragraph once communication is established the promotion server determines which advertisement to route to the users devices and how best to route it, see also ¶0061, users are able to respond to a received advertisement, this response signal is received by the system and the user is connected to the advertiser),

- *associating said accepting communication terminal with said promotion message on reception of said acceptance signal from said accepting communication terminal via a register of said promotion server* (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source and/or destination of the communication based on the information determined", *acceptance signal* is broadly interpreted here to mean a signal that a communication line is established (i.e. signal received), as shown in the cited paragraph once communication is established the promotion server determines which advertisement to route to the users devices and how best to route it, see also ¶0061, users are able to respond to a received advertisement, this response signal is received by the system and the user is connected to the advertiser),
- *transmitting a reminder signal for said event to said accepting communication terminal through said first communication network via said promotion server* (see at least ¶0007, "[t]he telecommunications advertising means comprises an advertisement database and a processing means," see also at least ¶0065 "[t]he user may even be able to select that more information or similar advertisement sources be provided;" Examiner notes that patentable weight was not given to the "reminder signal" because examiner identified prior art capable of sending signals to terminals and the content of the signals does not affect the scope of the claims, examiner also notes that weight was not given to the "signal" only the action of transmitting a signal),
- *transmitting said promotion message associated with an event having a defined start time to one or more communication terminals via a promotion server connected to said one or more communication terminals through a first communication network* (see at least ¶0007, "[t]he telecommunications

advertising means comprises an advertisement database and a processing means”),

The Strietzel invention does not specifically disclose *promotion message associated with an event having a defined start time*. Although the content of a promotion message does not patentably affect the scope of the invention and therefore deserves no patentable weight, as claimed the promotion message is “associated” with an event and the association is not necessarily limited to information about the event. The “association” remains ambiguous, however Examiner recognizes that Applicant attempted to narrow and more clearly define the invention by adding this limitation to the “promotion message,” so Examiner will apply patentable weight to the limitation. Reese, as shown, discloses *promotion message associated with an event having a defined start time* (see at least ¶¶0015-0016, “[t]he user is contacted at the appropriate time and destination with a message containing information associated with the event [t]his information may include a reminder about the event and/or information regarding a product, service, or other events associated with the event”). It would have been obvious to one having ordinary skill in the art at the time of the invention to integrate all of the functionality of the Reese invention with the invention of Strietzel since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable. Particularly, both inventions are focused on using any communications means to target appropriate messages to a user.

Claim 17:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitations:

- *forwarding said promotion message to further communication terminals via said one or more communication terminals* (see at least ¶¶0081, “[i]n one

embodiment, advertisements received on a terminal can be forwarded to all or some of the stored phone numbers").

Claim 18:

The combination Strietzel/Reese discloses the limitations as shown in the rejection above. Further, Strietzel, as shown, discloses the following limitations:

- *accepting said promotion message by transmitting an acceptance signal to said one or more communication terminals via said further communication terminals* (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source and/or destination of the communication based on the information determined", acceptance signal is broadly interpreted here to mean a signal that a communication line is established (i.e. signal received), as shown in the cited paragraph once communication is established the promotion server determines which advertisement to route to the users devices and how best to route it, see also ¶0061, users are able to respond to a received advertisement, this response signal is received by the system and the user is connected to the advertiser),
- *receiving said acceptance signal from an accepting communication terminal of said further communication terminals via said one or more communication terminals* (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source and/or destination of the communication based on the information determined", acceptance signal is broadly interpreted here to mean a signal that a communication line is established (i.e. signal received), as shown in the cited paragraph once communication is established the promotion server determines which advertisement to route to the users devices and how best to route it, see also ¶0061, users are able to respond to a received advertisement, this response signal is received by the system and the user is connected to the advertiser),

Art Unit: 3622

- *associating said accepting communication terminal with said promotion message on reception of said acceptance signal from said accepting communication terminal via a local register of said one or more communication terminal* (see at least ¶0042, "...processing means selectively associates at least one advertisement with the source and/or destination of the communication based on the information determined", acceptance signal is broadly interpreted here to mean a signal that a communication line is established (i.e. signal received), as shown in the cited paragraph once communication is established the promotion server determines which advertisement to route to the users devices and how best to route it, see also ¶0061, users are able to respond to a received advertisement, this response signal is received by the system and the user is connected to the advertiser),
- *transmitting a reminder signal for said event to said accepting communication terminal through said first communication network by means of said one or more communication terminal* (see at least ¶0007, "[t]he telecommunications advertising means comprises an advertisement database and a processing means," see also at least ¶0065 "[t]he user may even be able to select that more information or similar advertisement sources be provided;" Examiner notes that patentable weight was not given to the "reminder signal" because examiner identified prior art capable of sending signals to terminals and the content of the signals does not affect the scope of the claims, examiner also notes that weight was not given to the "signal" only the action of transmitting a signal).

Claim 27:

Streitzel, as shown, discloses the following limitation:

- *a messaging module configured to receive a promotion message from a promotion server, the promotion message being associated with an event* (see at least ¶0056, "[t]he device could be, for example, a telephone, a cellphone, PDA, or computer..."),

The Strietzel invention does not specifically disclose *promotion message associated with an event*. Although the content of a promotion message does not patentably affect the scope of the invention and therefore deserves no patentable weight, as claimed the promotion message is "associated" with an event and the association is not necessarily limited to information about the event. The "association" remains ambiguous, however Examiner recognizes that Applicant attempted to narrow and more clearly define the invention by adding this limitation to the "promotion message," so Examiner will apply patentable weight to the limitation. Reese, as shown, discloses *promotion message associated with an event having a defined start time* (see at least ¶¶0015-0016, "[t]he user is contacted at the appropriate time and destination with a message containing information associated with the event [t]his information may include a reminder about the event and/or information regarding a product, service, or other events associated with the event"). It would have been obvious to one having ordinary skill in the art at the time of the invention to integrate all of the functionality of the Reese invention with the invention of Strietzel since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable. Particularly, both inventions are focused on using any communications means to target appropriate messages to a user.

Further, Streitzel, as shown, discloses the following limitations:

- *communication circuitry configured to transmit an acceptance signal based on information in at least one of a calendar or a list of scheduled events*

residing in the apparatus see at least ¶0056, “[t]he device could be, for example, a telephone, a cellphone, PDA, or computer...”),

- *communication circuitry configured to receive a reminder signal from said promotion server* see at least ¶0056, “[t]he device could be, for example, a telephone, a cellphone, PDA, or computer...”).

Claim 28:

Streitzel, as shown, discloses the following limitation:

- *communication circuitry configured to forward said promotion message to one or more other apparatuses* (see at least ¶0081, forwarding a promotion message).

16. Claims 19-23 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strietzel (U.S. 2001/0051517) alone.

Claim 19:

Strietzel, as shown, discloses the following limitations:

- *a messaging module configured to receive a promotional message through a first communication network* (see at least Figure 1, 106 Router),
- *a calendar module configured to enable a user of said apparatus terminal to perform general calendar operations* (see at least Figure 1, 102 Message Database) based on Applicant's definition of *calendar operations*, see 35 U.S.C. 112 rejections above, it would have been obvious to one of ordinary skill in the art at the time of the invention to include additional data such as *calendar operations* within the message database because this will provide a central location for all data pertaining to advertisements and thus faster access to necessary data and improved functionality,
- *a media playback module configured to output promotion message* (see at least Figure 1, 106 Router),

Art Unit: 3622

- *a storage module configured to store promotion message information (see at least Figure 1, 102 Message Database),*
- *and a promotion messaging module configured to transmit said promotion message (see at least Figure 1, 106 Router).*

Claim 20:

Strietzel, as shown, discloses the following limitations:

- *wherein said promotion message information comprises at least one of promotion message identity, one or more communication terminal identities, event data or group application data (see at least ¶0021, "[a]dvertisement database stores advertisements that can be played to system users at appropriate times based on appropriate criteria").*

Claim 21:

Strietzel, as shown, discloses the following limitations:

- *audio and visual components configured to communicate the promotion message to the user of the apparatus (see at least ¶0038, "the advertisement may be an audio advertisement, it may be a jingle, a textual message, a video message, a graphic message, or a combination of these messages depending on the desired implementation" and see at least ¶0056, "[t]he device could be, for example, a telephone, a cellphone, PDA, or computer..."). Although Strietzel does not specifically require or disclose a audio and visual components, Strietzel contemplates such devices being present in a given receiver depending on the receiver and the supporting network.*

Claim 22:

Strietzel, as shown, discloses the following limitations:

- *said storage module is configured to store a promotion message and identity information comprising transmitter identity and associated messaging contact*

Art Unit: 3622

information, recipient identity and associated messaging contact information, media event information and group application data (see at least Figure 1, 102 Message Database),

- *which data is configured to initialize and activate a reminder application in response to receiving said reminder signal on said apparatus (see at least Figure 1, Item 104 Processing Means).*

Claim 23:

Strietzel, as shown, discloses the following limitation:

- *a means for utilizing an electronic program guide containing information on media events, said utilizing means being configured to cooperate with said calendar module to provide a reject signal when said apparatus is busy (see at least Figure 1, 104 Processing Means).*

Claim 30:

Strietzel, as shown, discloses the following limitation:

- *forwarding said promotion message to one or more other apparatuses (see at least ¶0081, forwarding a promotion message).*

Response to Arguments

17. Applicant's arguments with respect to claims 16-18 filed on 10 June 2008 have been considered but are moot in view of the new grounds of rejection. Applicant's amendment of claim 16 necessitated the new grounds of rejection. Applicant argued "Strietzel does not teach or suggest receiving an acceptance signal from an accepting communication terminal... associating said accepting communication terminal with said promotion message... and transmitting a reminder signal." As shown in the rejection above, Strietzel does disclose the limitations Applicant specifically discussed. For purposes of clarity, Examiner further explains the grounds of rejection above.

Art Unit: 3622

18. Applicant's arguments with respect to claims 1-15 and 19-23 filed 10 June 2008 have been fully considered but they are not persuasive. Applicant argues that claim 1 and 19 are substantially similar and that they "are distinguishable from the Strietzel reference at least in view of the remarks made above with respect to claim 1." This argument is not persuasive because Applicant did not include any further discussion of claim 1 in the response. Further claims 1 and 19 are not substantially similar. Applicant's argument with respect to the Asai reference is moot because Applicant amended the claims and removed many of the limitations that Examiner relied on the Asai reference to teach thereby forcing Examiner to remove the Asai reference from the rejections.

Conclusion

19. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
20. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3622

21. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Nathan C Uber** whose telephone number is **571.270.3923**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Eric Stamber** can be reached at **571.272.6724**.
22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).
23. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to **571-273-8300**.

24. Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building
401 Dulany Street
Alexandria, VA 22314.

/Nathan C Uber/ Examiner, Art Unit 3622
13 October 2008

/Arthur Duran/
Primary Examiner, Art Unit 3622